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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

TYLER JOSEPH WOOD,

Defendant and Appellant.

E073617

(Super.Ct.Nos. FVI18000440 &
FVI18001321)

OPINION

APPEAL from the Superior Court of San Bernardino County. Debra Harris,
Judge. Affirmed.

Paul Stubb Jr., under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL HISTORY

A. PROCEDURAL HISTORY

On February 14, 2018, in case No. FVI18000440, a felony complaint charged
defendant and appellant Tyler Joseph Wood with criminal threats under Penal Code

section 422, subdivision (a) (count 1); assault with force likely to produce great bodily injury under Penal Code section 245, subdivision (a)(4) (count 2); and misdemeanor battery under Penal Code sections 242 and 243, subdivision (a) (count 3). With respect to counts 1 and 2, the complaint also alleged that the offenses were committed for the benefit of, at the direction of, or in association with a criminal street gang under Penal Code section 186.22, subdivision (b)(1).

On March 6, 2018, pursuant to a plea agreement, defendant entered a plea of no contest on count 2. In exchange, counts 1 and 3, and the gang enhancements on counts 1 and 2, were dismissed. Thereafter, the trial court sentenced defendant to formal probation for three years with terms and conditions that included serving 44 days in custody; reporting to probation upon release; providing any peace officer with defendant's true name; notifying probation of place of residence and cohabitants; possessing no dangerous weapons or explosive devices; not associating with any persons known to be convicted felons; and paying the appropriate fines, fees, and assessments.

On May 17, 2018, in case No. FVI18001321, a felony complaint charged defendant with possession of a firearm by a felon under Penal Code section 29800, subdivision (a)(1) (count 1), and unlawful possession of ammunition under Penal Code section 30306, subdivision (a)(1).¹ On May 23, 2018, pursuant to a plea agreement, defendant pled no contest to count 2, in exchange for a dismissal of count 1. Thereafter,

¹ On May 17, 2018, the San Bernardino County Probation Department also filed a petition to revoke probation and remand defendant.

the trial court sentenced defendant to three years of formal probation, with terms and conditions that included defendant serve 180 days in custody.

On July 10, 2018, the San Bernardino County Probation Department filed petitions to revoke probation and remand defendant in both cases. On September 28, 2018, in a consolidated hearing under *People v. Vickers* (1972) 8 Cal.3d 451, the trial court revoked defendant's probation. The court then sentenced defendant to an aggregate term of three years consisting of the middle term of three years on count 2 in case No. FVI18000440, and the middle term of two years, concurrent, on count 2 in case No. FVI18001321. In each case, the court imposed fines, fee, and assessments, and awarded presentence custody credit.

On November 28, 2018, defendant filed a notice of appeal in both cases. On September 11, 2019, we granted defendant's petition for writ of habeas corpus to deem that both notices of appeal were constructively filed within the 60-day period.

B. FACTUAL HISTORY

1. *THE UNDERLYING OFFENSE IN CASE NUMBER FVI8000440*

On February 12, 2018, defendant got in a physical altercation with his father. Defendant's father told defendant that if defendant failed to attend his anger management class, he could not continue residing in the family home. In response, defendant threatened his father and a physical altercation ensued. Both defendant and his father struck each other. Defendant then jumped on his father, punching his father's head repeatedly, while invoking the name of his street gang. Defendant also mentioned putting a "gang hit" on his father.

2. *THE UNDERLYING OFFENSE IN CASE NUMBER FVI18001321*

On May 15, 2018, officers from the San Bernardino County Probation Department visited defendant's home. While inspecting defendant's room, one officer saw a round of ammunition in plain sight on top of the dresser. When questioned about weapons, defendant escorted the officer to his father's bedroom. Defendant showed the officer that his father kept a gun and ammunition in a dresser drawer. Defendant also told the officer that his father kept a rifle in the garage. The probation officer arrested defendant for violating probation and on new charges in case No. FVI18001321.

3. *VIOLATION OF PROBATION*

On March 13, 2018, Danielle Burson, an officer with the San Bernardino County Probation Department, conducted a home visit of a probationer named Trayvon. Defendant, who was at the home, identified himself as Derrick Morrando. On June 29, 2018, the probation officer conducted another probation compliance check at Trayvon's home. Defendant was there again. This time, defendant identified himself as Derrick Rivers. Officer Burson subsequently attempted to locate a Derrick Morrando or a Derrick Rivers in her system; she could not.

On July 2, 2018, Officer Burson contacted defendant by telephone. Defendant told the officer that "Derrick" was on probation and that defendant would refrain from any future association with Derrick. The next day, the probation officer called defendant again; defendant admitted lying about his name. Defendant stated that he lied because he did not want to get Trayvon or himself arrested.

“At some point[,] defendant was arrested. He, however, was first taken to the hospital for a medical clearance because he told the transporting officers that he had ingested “a lot of cocaine” and had a seizure. Defendant also claimed to have a handgun on his hip. Defendant did not have a gun and later admitted that he did not use any cocaine. He was “being a smartass” to the transporting officers.

Probation Officer Burson listed the following probation violations: associating with a known felon; failing to cooperate with probation; using drugs; and providing a false name. Moreover, although defendant joked about using cocaine, the probation officer believed it “was a big deal because [defendant] was not taking it seriously,” since defendant had previously admitted using cocaine and methamphetamine in high school.

The trial court found that defendant violated conditions of his probation and ordered that probation remain revoked in both cases; the court specified the reasons for revoking defendant’s probation were that defendant gave a false name, and did not cooperate with the probation officer.

DISCUSSION

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d setting forth a statement of the case and a summary of the facts. He has requested this court undertake a review of the entire record. Counsel did not provide any potential arguable issues.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we

have independently reviewed the record for potential error, and find no arguable issue for reversal on appeal.

DISPOSITION

The judgment is affirmed.

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MILLER

Acting P. J.

We concur:

SLOUGH

J.

RAPHAEL

J.